**HON'BLE SRI JUSTICE A.GOPAL REDDY**

**WRIT PETITION No.14861 of 2005**

**Date: 28-04-2006**

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Between:

H. Satyanarayana

…. Petitioner/s

and

The District Collector,

Collectorate Office,

Mahabubnagar District and 2 others.

…Respondent/s.

**HON'BLE SRI JUSTICE A.GOPAL REDDY**

**WRIT PETITION No.14861 of 2005**

**ORDER :**

The petitioner, who was appointed as Dealer of Fair Price Shop No.1 of Sripur village, Nagarkurnool Mandal, Mahabubnagar District was served with a show cause notice dated 10-6-2005 calling upon to submit his explanation as to why his authorization shall not be cancelled in view of the confiscation order dated 2-4-2005 passed by the Joint Collector pursuant to a case registered under Section 6-A of the Essential Commodities Act for misusing 21 quintals of FFW rice which was seized while selling the same in the open market. Petitioner submitted his explanation on 23-5-2005 to the show cause notice stating that he filed an appeal before the District Collector against the orders of the Joint Collector and the same is pending. It is also stated that as per the orders of this Court passed in W.P.No.581 of 2005, dated 24-1-2005 mere initiation of Section 6-A proceedings itself is not sufficient for cancellation of authorization, but it should be preceded by a show cause notice as well as enquiry. After submission of his explanation, the impugned order came to be passed. Questioning the correctness of the same, the present writ petition is filed.

The only submission made by the learned counsel for the petitioner is that in view of the judgment of this Court in W.P.No. 581 of 2005, dated 24-1-2005 the cancellation of authorization should be preceded by a show cause notice as well as enquiry, and since no enquiry has been conducted pursuant to the show cause notice and the explanation submitted by the petitioner, the order of cancellation is not sustainable.

Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Firstly, against the order of cancellation, without availing the remedy of appeal before the appellate authority under the provisions of the A.P. State Public Distribution System Control Order, 2001 (for brevity ‘the Control Order’), the petitioner approached this Court.

Secondly, Clause 5 of the Control Order mandates the cancellation of authorization notwithstanding anything contained in sub-clause (3) and (4) above, where a fair price shop dealer has been convicted by a Court of law in respect of contravention of any order made Section 3 of the Essential Commodities Act, 1955 relating to any of the commodities mentioned in the schedule to this Order.

Proviso to sub-clause (4) provides that if such confiscation is set aside in any appeal or revision, the appointing authority may, on application in Form-I made by the person whose authorization has been cancelled, re-issue the authorization to such person.

Appendix to Clause 3 (5) of the Control Order specifies that the authorization issued under this Order shall be liable for suspension or cancellation as the case may be, if the Fair Price Shop dealer is involved in any criminal case or when any case under Essential Commodities Act, 1955 or any other similar law is pending against him/her.

Thirdly, in W.P.No.581 of 2005 since the authorization of the petitioner therein was cancelled without issuing any show cause notice and conducting of enquiry, the order of cancellation was set aside. But the same is not with the case on hand. Pursuant to the confiscation order, a show cause notice was issued and only after considering the explanation submitted by the petitioner, the impugned order of cancellation was passed, which complies the requirement under the Control Order.

For the above reasons, the writ petition fails and the same is accordingly dismissed as devoid of merits. No costs.

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A. GOPAL REDDY,J)

28-4-2006.

Msr.

HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No.14861 of 2005

28-04-2006

(Msr)